

No.

2007R01282

CR11

00422 LHK

PSG

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SEALED BY ORDER
OF THE COURT

SAN JOSE DIVISION

2011 JUN 30 A 9:03
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
N.D. CALIF. SAN JOSE

THE UNITED STATES OF AMERICA

vs.

EDWARD G. KLUJ, and

GURINDER KIREN MAND

INDICTMENT

SEE ATTACHMENT

A true bill.

Mary Elizabeth Sladek
Foreperson

Filed in open court this 29 day of June

A.D. 2011

P.S. M
UNITED STATES MAGISTRATE JUDGE

Bail. \$ No bail arrest warrant (both defendants)

DOCUMENT NO	CSA's INITIALS
<u>1</u>	<u>e</u>
DISTRICT COURT CRIMINAL CASE PROCESSING	

ATTACHMENT TO INDICTMENT COVER

U.S.

v.

**EDWARD G. KLUJ, and
GURINDER KIREN MAND,**

Count One: 18 U.S.C. § 1349 - Conspiracy to Commit Health Care Fraud (Both)

Counts Two through Forty-One: 18 U.S.C. § 1347 - Health Care Fraud
(Count 2-8 Both, 9-41 -Kluj)

Counts Forty-Two through Forty Three: 18 U.S.C. § 1518 - Obstruction of Criminal
Investigation of HCF (Mand)

MELINDA HAAG (CSBN 132612)
United States Attorney

FILED

2011 JUN 30 A 9:03

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
N.D. CA - SAN JOSE

SEALED BY ORDER
OF THE COURT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LHK

SAN JOSE DIVISION

CR11 00422 PSG

UNITED STATES OF AMERICA,

Plaintiff,

v.

EDWARD G. KLUJ, and
GURINDER KIREN MAND,

Defendants.

VIOLATIONS: 18 U.S.C. § 1349 –
Conspiracy to Commit Health Care Fraud;
18 U.S.C. §§ 1347 and 2– Health Care
Fraud and Aiding and Abetting; 18 U.S.C. §
1518 - Obstruction of Criminal Investigation
of Health Care Offenses; 18 U.S.C. §
982(a)(7) – Criminal Forfeiture of
Healthcare Fraud Proceeds

SAN JOSE VENUE

INDICTMENT

The Grand Jury charges:

At all times relevant to this Indictment:

Introductory Allegations

1. EZ Step, Inc. was a pharmacy and licensed durable medical equipment (DME) supplier located at 1460 Tully Road, Suite 604, San Jose, California 95122. EZ Step, Inc. billed Medicare, Medi-Cal, and private insurance companies for prescription medication and DME orders.

2. EDWARD G. KLUJ owned and operated EZ Step, Inc., and was a registered pharmacist.

3. GURINDER KIREN MAND was an employee of EZ Step, Inc.

INDICTMENT

The Health Care Benefit Programs

The Medicare Program

4. The Medicare Program ("Medicare") was a federally funded health insurance program that provided health care benefits primarily to individuals aged 65 or older and certain disabled persons.

5. Medicare was administered by the Centers for Medicare and Medicaid Services (CMS), an agency of the United States Department of Health and Human Services (HHS). Medicare insurance benefits were paid out of a trust fund consisting of appropriations from the United States Treasury and premiums paid by those persons who chose to enroll.

6. CMS was responsible for the administration of the Medicare program nationally. CMS contracted with private insurance companies or "carriers" to process and pay Medicare claims regionally.

7. Eligible individuals who received benefits under Medicare were issued unique Medicare identification numbers or beneficiary numbers, and were commonly referred to as beneficiaries.

8. Health care professionals, including pharmacies and DME retailers, who enrolled with Medicare to receive reimbursement for providing medications, medical benefits, items and services to beneficiaries, were referred to as Medicare providers. To become a Medicare provider, a health care professional completed and submitted a provider enrollment application certifying that it was familiar with and would comply with all Medicare laws, rules and regulations. Medicare then assigned the provider a unique billing number to be used when seeking reimbursement from – or billing – Medicare.

9. Along with issuing a unique billing number, Medicare and its agents and contractors, issued and/or published on its Internet websites, provider manuals, bulletins and updates, which explained Medicare's laws, rules and regulations.

10. Medicare primarily relied on patient files to determine whether medical services were provided and procedures performed, and whether they were reasonable and necessary. Medicare generally required providers to keep and maintain patient files with true and accurate information

1 for at least five years. Medicare had the regulatory authority to conduct audits and request
2 records from its providers at any time.

3 Medicare Part B

4 11. Different types of benefits covered by Medicare were separated into different
5 program parts. Part B of the Medicare program was a medical insurance program that paid up to
6 80% of the allowable charges of certain physician services, outpatient services, and other health
7 care benefits, items and services, including DME, related prescription medications, other health
8 care benefits, items and services that were medically necessary and ordered by licensed medical
9 doctors or other qualified health care providers. DME was equipment designed for repeated use
10 and for a medical purpose, including wheelchairs, orthopedic shoes, commodes and inhalers.

11 12. Payments under Medicare Part B were often made directly to the health care provider
12 or its billing contractor rather than to the beneficiary. The beneficiary would assign the right of
13 payment to the health care provider. The health care provider then assumed the responsibility for
14 submitting claims to and receiving payments from Medicare.

15 Medicare Part D

16 13. Part D of the Medicare program established an optional prescription drug benefit for
17 Medicare beneficiaries in the United States. Medicare beneficiaries could obtain Part D benefits
18 by joining the Medicare private Prescription Drug Plan (PDP), where private insurance
19 companies provided the coverage for prescription drugs only, or they could join the Medicare
20 Advantage Plan which covered both prescription drugs and medical services. The private
21 insurance plans were reimbursed by Medicare through CMS.

22 14. A private insurance company offering a Medicare Part D Plan was a Medicare Part D
23 Sponsor (Sponsor). Sponsors included private insurance carriers such as Humana, HealthNet,
24 Blue Cross, Blue Shield, and United Health Group, among others. These Sponsors offered
25 different PDPs, and received, processed and paid all claims for reimbursement for Medicare
26 providers in California.

27 15. Medicare beneficiaries who joined a Medicare PDP were issued separate member
28 identification numbers and PDP cards. Part D beneficiaries presented their PDP cards to a

1 pharmaceutical provider at the time of service and were later billed a fee or co-payment.
2 Medicare subsidized a portion of the bill and the Sponsor paid the remaining costs when billed
3 by the pharmaceutical provider for reimbursement for services rendered. The pharmaceutical
4 provider submitted the prescription claim for reimbursement to the Sponsor for payment under
5 the beneficiary's Health Insurance Claim Number (HICN) and/or Medicare Plan identification
6 number.

7 **The Medi-Cal Program**

8 16. The Medi-Cal Program (Medi-Cal) was a public assistance program – often referred
9 to as Medicaid in other states – that paid the cost of essential medical care for low-income
10 individuals in California. Medi-Cal was funded with approximately 50% federal funds (from
11 HHS) and 50% state funds. The California Department of Health Services acted as an agent for
12 the United States in the disbursement of the funds which the federal government placed in Medi-
13 Cal.

14 17. Eligible individuals who received benefits under Medi-Cal were issued unique Medi-
15 Cal identification numbers or beneficiary numbers.

16 18. Health care providers, including pharmacies and DME retailers, who enrolled with
17 Medi-Cal to provide medical services were Medi-Cal providers. Medi-Cal providers were
18 required to comply with Medi-Cal's rules and regulations. Medi-Cal providers were required to
19 keep records that fully disclosed the type and extent of services and merchandise provided to
20 Medi-Cal beneficiaries, including records of prescriptions, for a period of three years.

21 19. After providing services to a Medi-Cal beneficiary, providers submitted claims for
22 payment to the state's fiscal intermediary, a private company under contract with the California
23 Department of Health Services to process Medi-Cal claims. Since 1988, the fiscal intermediary
24 has been Electronic Data Systems Corporation (EDS) in Sacramento, California.

25 20. Medi-Cal generally paid claims upon receipt, without requiring the claim to be
26 accompanied by documentary proof that the services or merchandise were actually provided or
27 were medically necessary, or that prescriptions had ever been issued for the drugs dispensed.

28 21. Medicare, Medi-Cal, and private insurance companies each qualified as a "health

1 care benefit program,” as defined by Title 18, United States Code, Section 24(b), in that they
2 were public or private plans, affecting commerce, under which medical benefits, items, and
3 services were provided to individuals.

4 **Billing Codes and Procedures**

5 22. To receive payment under a health care benefit program, a health care provider, such
6 as a pharmacy or DME retailer, would submit a health insurance claim form electronically or by
7 submitting a claim form, using its unique billing number (referred to as a provider number for
8 prescription medications, or supplier number for DME and related medications, health care
9 benefits, items and services). The claim form required health care providers to provide certain
10 important information, including: (a) the beneficiary’s name and identification number; (b) the
11 identification number of the doctor or other qualified health care provider who ordered the
12 prescription medication, DME or related prescription medication, health care benefit, item or
13 service that was the subject of the claim; (c) the prescription medication, DME or related
14 prescription medication, health care benefit, item or service that was provided or supplied to the
15 beneficiary; (d) the billing codes for the prescription medication, DME or related prescription
16 medication, benefit, item, or service, and (e) the date upon which the prescription medication, or
17 DME or related prescription medication, benefit, item, or service was provided or supplied to the
18 beneficiary.

19 23. Many health care providers employed billers and/or medical coders to convert
20 information from patient files to codes, enter those codes onto claim forms, and then submit
21 those claim forms electronically or by hard copy to health care benefit programs for
22 reimbursement of the claims. These billers typically used billing software approved by the health
23 care benefit program (i.e., Medicare or Medi-Cal) where the claims were transmitted to the
24 insurance carrier via the internet. The health care benefit programs sent a reimbursement check
25 to the provider, or initiated an electronic transfer of funds to the provider’s biller or directly to
26 the provider’s bank.

27 24. Part D Sponsors typically contracted with a third party biller – a Pharmacy Benefit
28 Manager (PBM) – to handle claims. Claims were submitted electronically by the pharmaceutical

1 provider or its PBM. The claims were received and paid by the Sponsor directly or by the
2 Sponsor's PBM.

3 25. Medicare and private insurance companies mailed a claims summary to the
4 beneficiary, which identified how much the health care benefit programs paid on the
5 beneficiary's behalf.

6 The Scheme and Artifice to Defraud

7 26. Beginning on a date uncertain, but no later than in 2005, and continuing through
8 approximately 2007, in the Northern District of California and elsewhere, KLUJ, MAND, and
9 others, devised and intended to devise a scheme and artifice to defraud health care benefit
10 programs, including Medicare, Medi-Cal and privately sponsored health insurance programs, in
11 connection with the payment for health care benefit services by knowingly submitting and
12 causing to be submitted false, fraudulent and fictitious health care claims.

13 Manner and Means of the Scheme and Artifice to Defraud

14 27. It was part of the scheme and artifice to defraud that KLUJ, MAND, and others,
15 known and unknown to the grand jury, regularly submitted, or caused to be submitted, false and
16 fraudulent claims to health care benefit programs that falsely represented that EZ Step, Inc. had
17 provided pharmaceutical items and services to beneficiaries pursuant to orders and prescriptions
18 by physicians or other health care providers.

19 28. It was further part of the scheme to defraud that false claims were typically billed
20 under the insurance plans of elderly health care program beneficiaries, EZ Step, Inc. employees
21 and their family members, and other EZ Step, Inc. customers.

22 29. It was further part of the scheme and artifice to defraud that KLUJ, MAND, and
23 others, submitted, or caused to be submitted, false and fraudulent claims to health care benefit
24 programs for medications by:

- 25 (a) seeking reimbursement for claims without prescriptions;
- 26 (b) fabricating prescriptions and forging signatures of physicians on prescriptions;
- 27 (c) inflating dosage and quantity amounts of medications ordered by physicians or
- 28 other health care providers, and inflated numbers of authorized refills of

1 prescribed medications;

2 (d) adding unauthorized medications to prescriptions for authorized medications;

3 (e) using the billing numbers of beneficiaries to whom prescriptions were not issued
4 in order to seek reimbursement under their insurance plans;

5 (f) seeking reimbursement for brand names of the less expensive generic names of
6 medications prescribed by physicians or other health care providers;

7 (g) seeking reimbursement for unauthorized prescriptions for medications that were
8 covered under the plans of beneficiaries instead of the authorized prescriptions for
9 medications which were not covered; and

10 (h) delivering to beneficiaries only partial amounts of the medications prescribed and
11 billed to their plans, or failing to deliver the billed medications at all, and forging
12 their signatures on EZ Step, Inc. delivery forms to indicate that the beneficiaries
13 had received the medications prescribed and billed in their names.

14 30. It was further part of the scheme and artifice to defraud that KLUJ, MAND, and
15 others, submitted, or caused to be submitted, false and fraudulent claims to health care benefit
16 programs seeking reimbursement for the cost of DME and related prescription medications,
17 benefits, items, and services that were denied, not authorized by physicians, nor provided to
18 beneficiaries as claimed by:

19 (a) fabricating DME authorizations, Certificates of Medical Necessity, and related
20 documents, and forging the signatures of physicians and other authorized health
21 care providers of beneficiaries on these documents;

22 (b) adding DME and related prescription medications, benefits, items, and services to
23 orders of physicians or other authorized health care providers;

24 (c) seeking reimbursement for DME and related prescription medications, benefits,
25 items, and services eligible for greater insurance reimbursement than those
26 actually authorized by physicians or authorized health care providers;

27 (d) substituting DME and related prescription medications, benefits, items, and
28 services covered by the insurance plans of beneficiaries for the non-covered DME

and related prescription medications, benefits, items, and services which had been authorized by physicians or other health care provider; and

- (e) not delivering DME and related prescription medications, benefits, items, and services which they billed in the names of beneficiaries, and forging the signatures of the beneficiaries on EZ Step delivery forms to indicate that EZ Step, Inc. had delivered the DME and related prescription medications, benefits, items, and services to them; and
- (f) delivering DME and related prescription medications, benefits, items, and services at a lesser insurance reimbursement rate than items which had been ordered by the physicians or authorized health care providers and billed to the health care programs.

31. It was further part of the scheme and artifice to defraud that KLUJ, MAND, and others, failed to maintain proper records, and altered or destroyed records in order to avoid detection by medical auditors and investigators, and caused records to be altered, destroyed and not to be maintained by:

- (a) excessively stamping documents purporting to be valid prescriptions and DME authorizations with dates and initials so as to make the documents illegible;
- (b) forging signatures of physicians and patients on prescription and DME authorization forms; and
- (c) having incomplete patient records of prescriptions or DME authorizations and related documents in patient files.

32. It was further part of their scheme and artifice to commit health care fraud, and to evade detection of health care fraud by medical auditors and investigators, that KLUJ and others engaged in threats and intimidation of employees by:

- (a) accusing EZ Step, Inc. employees of stealing medications or DME and related items from EZ Step, Inc.;
- (b) brandishing weapons, such as firearms and a knife, on the premises of EZ Step, Inc. in the presence of employees, and leaving bullets in the work spaces of

employees;

(c) coercing employees to engage in false billing to prevent the employees from reporting the false billing at EZ Step, Inc., because disclosure would reveal their own participation; and

(d) warning employees not to report the false billing to regulatory and law enforcement authorities.

COUNT ONE: (18 U.S.C. § 1349 - Conspiracy to Commit Health Care Fraud)

33. The factual allegations contained in Paragraphs 1 through 32 of this Indictment are re-alleged and incorporated as if fully set forth here.

34. Beginning on a date unknown, but no later than in or about 2005, and continuing through in or about 2007, in the Northern District of California and elsewhere, the defendants,

EDWARD G. KLUIJ,
and
GURINDER KIREN MAND,

and others, knowingly and willfully conspired to devise and did devise a scheme and artifice (A) to defraud as to a material matter a health care benefit program, affecting commerce, as defined in Title 18, United States Code, Section 24(b), and (B) to obtain any of the money and property owned by, and under the custody and control of, said health care benefit program, by means of materially false and fraudulent pretenses, representations, and promises, and material omissions, in connection with the delivery of and payment for health care benefits, items, and services, in violation of Title 18, United States Code, Section 1347.

All in violation of Title 18, United States Code, Section 1349.

COUNTS TWO THROUGH ^{SEVEN} EIGHT: (18 U.S.C. §§ 1347 and 2 - Health Care Fraud and Aiding and Abetting)

35. Paragraphs 1 through 32 of this Indictment are re-alleged and incorporated as if fully set forth here.

36. On or about the dates set forth below, in the Northern District of California and elsewhere, the defendants,

EDWARD G. KLUIJ,
and
GURINDER KIREN MAND,

and others, did knowingly and willfully execute, and attempt to execute, a scheme and artifice (A) to defraud as to a material matter a health care benefit program, affecting commerce, as defined in Title 18, United States Code, Section 24(b), and (B) to obtain any of the money and property owned by, and under the custody and control of, said health care benefit program, by means of materially false and fraudulent pretenses, representations, and promises, and material omissions, in connection with the delivery of and payment for health care benefits, items, and services, as follows:

Count	Date of Payment	Beneficiary	Health Care Program and Claim Number	Item Claimed; Approx. Amount Paid by Health Care Program
2	8/10/06	D.M.-1	Medicare (Part D) 66209860251	Abilify 20 mg \$1,280.61
3	7/13/06	D.M.-1	Medicare (Part B) 61928013910	Power Wheelchair \$4,036.80
4	8/11/06	D.M.-2	Blue Cross 1085695173	Tarceva 150 mg tablet \$2,794.98
5	8/25/06	D.M.-2	Blue Cross 1086023514	Cellcept 250 mg Capsule \$253.37
6	8/25/06	D.M.-2	Blue Cross 1086413170	Abilify 30 mg tablet \$894.70
7	8/20/06	R.B.-1	Medicare (Part D) 62097703828015	Zyprexa 20 mg tablet \$1,786.23

All in violation of Title 18, United States Code, Sections 1347 and 2.

~~EIGHT~~ ~~ONE~~
~~COUNTS NINE THROUGH FORTY-TWO~~: (18 U.S.C. §§ 1347 and 2 - Health Care Fraud and Aiding and Abetting)

37. Paragraphs 1 through 32 of this Indictment are re-alleged and incorporated as if fully set forth here

38. On or about the dates set forth below, in the Northern District of California and

elsewhere, the defendant,

EDWARD G. KLUJ,

and others, did knowingly and willfully execute, and attempt to execute, a scheme and artifice (A) to defraud as to a material matter a health care benefit program, affecting commerce, as defined in Title 18, United States Code, Section 24(b), and (B) to obtain any of the money and property owned by, and under the custody and control of, said health care benefit program, by means of materially false and fraudulent pretenses, representations, and promises, and material omissions, in connection with the delivery of and payment for health care benefits, items, and services, as follows:

Count	Date of Payment	Beneficiary	Health Care Program and Claim Number	Item Claimed; Approx. Amount Paid By Health Care Program
8	1/20/07	D.M.-1	Medicare (Part D) 74173376661	Tricor \$266.53
9	4/10/07	L.S.	Medicare (Part D) 274992494291	Claravis 20 mg tablet \$365.79
10	6/10/07	L.S.	Medicare (Part D) 075543805111	Zyvox 600 mg tablet; \$3,852.97
11	8/20/07	L.S.	Medicare (Part D) 076286703871	Ziagen 300 mg tablet; \$1,913.67
12	8/10/07	M.F.	Medicare (Part D) 076170100351	Norvasc 10 mg tablet; \$201.05
13	10/10/07	M.F.	Medicare (Part D) 076777940171	Norvasc 10 mg tablet; \$201.05
14	1/10/07	L.N.	Medicare (Part D) 274023050501	Detrol LA 2 mg capsule SA; \$248.47
15	1/10/07	L.N.	Medicare (Part D) 274027532971	Flomax 0.4 mg capsule SA; \$142.83
16	6/30/07	L.N.	Medicare (Part D) 075747365851	Amox Tr-K Clv 875-125 mg tablet; \$89.66

Count	Date of Payment	Beneficiary	Health Care Program and Claim Number	Item Claimed; Approx. Amount Paid By Health Care Program
17	8/24/07	A.N.	Blue Cross 1290019799	Neupogen 300 mcg/ml vial; \$2,023.59
18	6/4/07	A.N.	Blue Cross 1245659722	Pangestyme CN 20.66.42075 capsule DR; \$87.26
19	4/7/07	A.N.	Blue Cross 1223756933	Lamictal 25 mg tablet; \$199.20
20	3/5/07	N.L.	Medi-Cal 6418371764	Prograf 5 mg capsule; \$5,147.03
22	3/5/07	N.L.	Medi-Cal 6418392446	Cellcept 500 mg tablet; \$3,084.07
22	6/1/07	N.L.	Medi-Cal 1243617988	Valcyte 450 mg tablet; \$2,019.60
23	5/4/07	N.L.	Medi-Cal 1221801654	Demeclocycline HCL 300 mg tablet; \$1,522.33
24	3/3/07	S.L.	Medi-Cal 6219053050	Cellcept 500 mg tablet; \$3,084.07
25	3/3/07	S.L.	Medi-Cal 6219053050	Prograf 5 mg capsule; \$5,147.03
26	4/20/07	S.L.	Medi-Cal 1202574790	Valcyte 450 mg tablet; \$3,845.51
27	4/20/07	S.L.	Medi-Cal 1202269628	Targretin 1% gel; \$3,010.38
28	9/11/07	R.B.-1	Medicare (Part D) 72348349030013	Targretin gel 1%; \$1,505.60
29	9/11/07	R.B.-1	Medicare (Part D) 72346792031024	Trizivir tablet; \$1,785.52
30	10/26/07	D.H.	Blue Cross 1313406241	Levaquin tablet 750 mg; \$100.69

Count	Date of Payment	Beneficiary	Health Care Program and Claim Number	Item Claimed; Approx. Amount Paid By Health Care Program
31	10/26/07	D.H.	Blue Cross 1313514963	Targetin capsule 75 mg; \$1,353.57
32	8/17/07	D.H.	Blue Cross 1271346777	Valcyte tablet 450 mg; \$2,043.87
33	5/12/07	D.B.	Medicare (Part B) 107134800174000	Levalbuteral; \$340.08
34	6/4/07	D.B.	Medicare (Part D) 7128032750213	Tarceva tablet 150 mg; \$2,239.74
35	7/20/07	D.B.	Medicare (Part D) 71778263931027	Panretin gel 0.1%; \$2,154.50
36	4/27/07	R.B.-2	Medicare (Part D) 70935648226012	NovoLog Mix PenFill; \$653.39
37	1/27/07	R.B.-2	Medicare (Part D) 70071452723036	NovoLog Mix PenFill; \$657.27
38	1/27/07	R.B.-2	Medicare (Part D) 70071428411003	Viread; \$420.04
39	10/12/07	J.G.	Medicare (Part D) 72605849022052	Hepsera tablet 10 mg; \$1,266.35
40	10/12/07	J.G.	Medicare (Part D) 72647943380001	Targetin capsule 75 mg; \$2,738.72
41	6/20/07	J.G.	Medicare (Part D) 71495269422006	Xopenex HFA AER; \$85.58

All in violation of Title 18, United States Code, Sections 1347 and 2.

COUNT FORTY-TWO: (18 U.S.C. § 1518 - Obstruction of Criminal Investigation of Health Care Offenses)

39. Paragraphs 1 through 32 of this Indictment are re-alleged and incorporated as if fully set forth here.

40. In or about December 2007, in the Northern District of California and elsewhere, the

1 defendant,

2 GURINDER KIREN MAND,

3 did attempt to willfully prevent, obstruct, mislead, and delay the communication of information
 4 relating to a violation of a Federal health care offense to a criminal investigator, to wit, by
 5 instructing Jane Doe 1, a former EZ Step, Inc. employee, to deny knowledge about the
 6 commission of health care fraud at EZ Step, Inc., in violation of Title 18, United States Code,
 7 Section 1518.

8 **COUNT FORTY-THREE:** (18 U.S.C. § 1518 - Obstruction of Criminal Investigation of Health
 9 Care Offenses)

10 41. Paragraphs 1 through 32 of this Indictment are re-alleged and incorporated as if fully
 11 set forth here.

12 42. In or about November 2008, in the Northern District of California and elsewhere, the
 13 defendant,

14 GURINDER KIREN MAND,

15 did attempt to willfully prevent, obstruct, mislead, and delay the communication of information
 16 relating to a violation of a Federal health care offense to a criminal investigator, to wit, by
 17 instructing Jane Doe 2, a former EZ Step, Inc. employee, to deny knowledge about the
 18 commission of health care fraud at EZ Step, Inc., in violation of Title 18, United States Code,
 19 Section 1518.

20 **FORFEITURE ALLEGATION:** (18 U.S.C. § 982(a)(7) - Forfeiture of Healthcare Offense
 21 Proceeds)

22 43. Paragraphs 1 through 32 and Counts One through Forty-One of this Indictment are
 23 hereby re-alleged and by this reference fully incorporated here for the purpose of alleging
 24 forfeiture pursuant to the provisions of Title 18, United States Code, Section 982(a)(7).

25 44. Upon conviction of the offenses alleged in Counts One through Forty-One above, the
 26 defendants, EDWARD G. KLUJ and GURINDER KIREN MAND, shall forfeit to the United
 27 States any property constituting, or derived from, proceeds the defendants obtained directly or
 28 indirectly as a result of said violations, pursuant to Title 18, United States Code, Section

982(a)(7), including but not limited to the following:

- a. Money Judgment: a sum of money equal to the total gross proceeds obtained as a result of the offenses;
- b. Real Property: real property and improvements, including those located at 4169 Knightsen Avenue, Knightsen, California 94548, A.P.N.: 032-020-013.

45. If as a result of any act or omission of the defendants, any of said property

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property that cannot be divided without difficulty;

any and all interest that the defendants have in any other property, up to the value of the property described in paragraph 41 above, shall be forfeited to the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b), and Rule 32.2 of the Federal Rules of Criminal Procedure.

DATED:

A TRUE BILL.

Mary Elizabeth Sladek
FOREPERSON

MELINDA HAAG
United States Attorney

[Signature] for Miranda Kane
MIRANDA KANE
Chief, Criminal Division

(Approved as to form: *E. Choi*)
AUSA E. Choi

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED

SEE ATTACHMENT

- ☐
- Petty
-
- ☐
- Minor
-
- ☐
- Misdemeanor
-
- ☒
- Felony

PENALTY: SEE ATTACHMENT

 SEALED BY ORDER
 OF THE COURT

CR 11

 Name of District Court, and/or Judge/Magistrate Location
 NORTHERN DISTRICT OF CALIFORNIA

 SAN JOSE DIVISION
 2011 JUN 30 A 4:03
DEFENDANT - U.S.
 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 EDWARD G. K...
 DISTRICT COURT NUMBER

LHK

00422

PSG

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

FBI

☐ person is awaiting trial in another Federal or State Court,
 give name of court

☐ this person/proceeding is transferred from another district
 per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of
 charges previously dismissed
 which were dismissed on motion
 of:

☐ U.S. ATTORNEY ☐ DEFENSE
SHOW
DOCKET NO.
☐ this prosecution relates to a
 pending case involving this same
 defendant
MAGISTRATE
CASE NO.
☐ prior proceedings or appearance(s)
 before U.S. Magistrate regarding this
 defendant were recorded under

 Name and Office of Person
 Furnishing Information on this form Melinda Haag

☒ U.S. Attorney ☐ Other U.S. Agency

 Name of Assistant U.S.
 Attorney (if assigned) AUSA EUMI L. CHOI
DEFENDANT**IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

 1) ☒ If not detained give date any prior
 summons was served on above charges
2) ☐ Is a Fugitive3) ☐ Is on Bail or Release from (show District)**IS IN CUSTODY**4) ☐ On this charge5) ☐ On another conviction
☐ Federal ☐ State
6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer ☐ Yes
 been filed? ☐ No

 If "Yes"
 give date
 filed
DATE OF
ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☐ SUMMONS ☐ NO PROCESS* ☒ WARRANT

Bail Amount: NO BAIL

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

 * Where defendant previously apprehended on complaint, no new summons or
 warrant needed, since Magistrate has scheduled arraignment

Date/Time: Before Judge:

Comments:

11

**ATTACHMENT TO PENALTY SHEETS
U.S.**

v.

**EDWARD G. KLUJ, and
GURINDER KIREN MAND,**

Count One: 18 U.S.C. § 1349 - Conspiracy to Commit Health Care Fraud (Both)

Penalties: Up to ten years imprisonment;
\$250, 000 fine (or twice the gain/loss);
At least two years but not more than three years supervised release;
\$100 Special Assessment

Counts Two through Forty-One: 18 U.S.C. § 1347 - Health Care Fraud
(Counts 2-8 Both, Counts 9-41 -Kluj)

Penalties: Up to ten years imprisonment;
\$250, 000 fine (or twice the gain/loss);
At least two years but not more than three years supervised release;
\$100 Special Assessment

Counts Forty-Two through Forty Three: 18 U.S.C. § 1518 - Obstruction of Criminal
Investigation of HCF (Mand)

Penalties: Up to five years imprisonment;
\$250, 000 fine (or twice the gain/loss);
At least two years but not more than three years supervised release;
\$100 Special Assessment

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED

SEE ATTACHMENT

- ☐
- Petty
-
- ☐
- Minor
-
- ☐
- Misdemeanor
-
- ☒
- Felony

PENALTY: SEE ATTACHMENT

 SEALED BY ORDER
 OF THE COURT

CR 11

Name of District Court and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

2011 JUN 30 A 9:03

DEFENDANT - U.S.

GURINDER KIREN MAND

DISTRICT COURT NUMBER

00422

PSG

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

FBI

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person

Furnishing Information on this form Melinda Haag

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned) AUSA EUMI L. CHOI

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Month/Day/Year

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Date/Time:

Before Judge:

A2

Comments:

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